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TAGS: ETRN, GW, XT

SUBJECT: CIVAIR - US/ FRG CHARTER UNDERSTANDING

REF: BONN 3663

1. FOLLOWING IS TEXT DRAFT US/ FRG CHARTER UNDERSTANDING.
INSTRUCTIONS BEING SENT REFTEL.

DRAFT MEMORANDUM OF UNDERSTANDING

REPRESENTATIVES OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE FEDERAL REPUBLIC OF GERMANY HAVE DISCUSSED THE CONDITIONS GOVERNING TRAVEL GROUP CHARTER (TGC) FLIGHTS AND ADVANCE BOOKING CHARTER (ABC) FLIGHTS BETWEEN THE UNITED STATES AND GERMANY, AND HAVE CONCLUDED THAT THEIR RESPECTIVE RULES ARE SUBSTANTIALLY SIMILAR, ARE EXPERIMENTAL IN CHARACTER, AND ARE " ADVANCE CHARTER" RULES IN THE TRANSATLANTIC CONNOTATION OF THE TERM. NEVERTHELESS, AT THE PRESENT TIME EACH RULE CONTAINS DISSIMILAR ELEMENTS RELATED TO THE DISTINCTIVE MARKETING CONDITIONS, INTERNAL LEGAL SITUATIONS, AND ENFORCEMENT STRUCTURES OF EACH COUNTRY. THEY RECOGNIZED THAT THESE DISSIMILAR ELEMENTS ARE AN OBSTACLE TO THE CARRIAGE

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OF ADVANCE CHARTER TRAFFIC BETWEEN THEIR TWO COUNTRIES. THEY RECOGNIZED THAT UNIFORMITY OF RULES WOULD HAVE BEEN PREFERABLE BUT HAS NOT BEEN ACHIEVED; THEREFORE THE SOLUTION WHICH WILL BEST SERVE THE PUBLIC INTEREST IN PRESENT CIRCUMSTANCES IS THAT TRAFFIC CONFORMING WITH THE ADVANCE CHARTER RULES OF THE COUNTRY OF ORIGIN OF THE TRAFFIC SHOULD BE ACCEPTED AS CHARTERWORTHY BY THE OTHER COUNTRY. THIS MEMORANDUM SETS FORTH THE AGREED REGULATORY PROCEDURES TO GIVE EFFECT TO THIS CONCEPT AS WELL AS PARTICULAR ACTIONS EACH PARTY WILL UNDERTAKE FOR THE PERIOD ENDING MARCH 31 ST 1974.

I. AGREED PROCEDURES FOR MUTUAL IMPLEMENTATION AND ENFORCEMENT OF ADVANCE CHARTER REGULATIONS

A. CHARTERWORTHINESS. EAC PARTY UNDERTAKES TO ACCEPT AS CHARTERWORTHY TRAFFIC (A) ORIGINATED IN THE TERRITORY OF THE OTHER PARTY AND ORGANIZED AND OPERATED PURSUANT TO THE ADVANCE CHARTER (TGC OR AUC) RULE (FOOTNOTE 1) OF THAT PARTY AND (B) ORIGINATED OUTSIDE THE TERRITORY OF EITHER PARTY AND OPERATED PURSUANT TO AN ADVANCE CHARTER RULE WHICH HAS BEEN RECOGNIZED BY THE PARTY TO WHOSE TERRITORY THE CHARTER FLIGHT IS OPERATED. FOR THE PURPOSE OF THIS UNDERSTANDING, THE COUNTRY OF THE ORIGIN OF TE TRAFFIC IS TO BE DETERMINED BY REFERENCE TO POINT IN THE TERRITORY OF EITHER PARTY (OR A POINT OUTSIDE) FROM WHICH THE GROUP OF ADVANCE CHARTER PASSENGERS DEPARTS ON THE OUTWARD PORTION OF A ROUND- TRIP (INCLUDING CIRCLE AND OPEN- JAW) JOURNEY UNDER THE TGC OR ABC RULES.

B. ADMINISTRATION AND ENFORCEMENT. EACH PARTY RESERVES ITS RIGHT TO REQUIRE THE FILING OF CHARTER PROGRAMS ORIGINATING IN THE TERRITORY OF THE OTHER PARTY(FOOTNOTE 2). TO MINIMIZE THE ADMINISTRATIVE BURDENS OF ENFORCEMENT PROCEDURES ON CARRIERS AND ORGANIZERS, AND AT THE SAME TIME TO COORDINATE ENFORCEMENT PROCEDURES, EACH PARTY:
(1) UNDERTAKES NOT TO REQUIRE THE ROUTINE FILING WITH IT OF PASSENGER LISTS AND OTHER DOCUMENTS FOR CHARTER TRAFFIC ORIGINATED IN THE TERRITORY OF THE OTHER PARTY AND ORGANIZED AND OPERATED PURSUANT TO THE ADVANCE CHARTER RULE OF THAT PARTY AND ORIGINATED OUTSIDE THE TERRITORY OF EITHER PARTY AND OPERATED PURSUANT TO AN ADVANCE CHARTER RULE WHICH HAS BEEN RECOGNIZED BY THE PARTY TO WHOSE TERRITORY THE CHARTER FLIGHT IS OPERATED (FOOTNOTE 3).

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TORY THE CHARTER FLIGHT IS OPERATED (FOOTNOTE 3).

(2) UNDERTAKES THAT ITS REGULATORY AUTHORITIES WILL TRANSMIT, ON REQUEST, TO THE REGULATORY AUTHORITIES OF THE OTHER PARTY, PASSENGER LISTS AND OTHER APPROPRIATE DOCUMENTS TO FACILITATE THE CONDUCT OF SPOT CHECKS OF FLIGHTS, ESPECIALLY IF ON SUCH FLIGHTS THERE IS COMMINGLING OF ABC/ TGC GROUPS WITH GROUPS ORGANIZED IN ACCORDANCE WITH OTHER REGULATIONS.

(3) UNDERTAKES TO TRANSMIT TO THE REGULATORY AUTHORITIES OF THE OTHER PARTY, FOR APPROPRIATE ENFORCEMENT OF

ITS RULE, EVIDENCE OBTAINED OF POSSIBLE RULE VIOLATIONS ON FLIGHTS OPERATED PURSUANT TO THE ADVANCE CHARTER RULE OF THE OTHER PARTY, RATHER THAN INTERRUPT THE FLIGHT AND CAUSE INCONVENIENCE TO OR STRANDING OF THE TRAVELING PUBLIC.

(4) INTENDS TO CONDUCT SPOT CHECKS AND TO CONDUCT OCCASIONAL POST FLIGHT REVIEWS OF ADVANCE CHARTER FLIGHTS OPERATED PURSUANT TO ITS RULE, TAKE APPROPRIATE ACTION WHEN VIOLATIONS ARE OBSERVED, AND REGULATE THE CONDUCT OF CHARTER ORGANIZERS OPERATING ON ITS TERRITORY.

C. TARIFFS, RATES, AND FARES. TO ASSURE THAT PRICES ARE NEITHER UNREASONABLY HIGH OR LOW TAKING INTO ACCOUNT ALL RELEVANT COSTS, EACH PARTY SHALL REQUIRE THE FILING OF TARIFFS OR PRICE SCHEDULES (AS APPLICABLE) AND ENFORCE CONFORMITY TO TARIFF OR SCHEDULES ON ALL FLIGHTS OPERATED.

D. OTHER CONSIDERATIONS. TO FURTHER FACILITATE THE DEVELOPMENT OF THE INTERNATIONAL AIR TRANSPORT SYSTEM, THE REGULATORY AUTHORITIES OF EACH PARTY SHALL:

(1) STAND READY TO MODIFY THEIR ADVANCE CHARTER RULES SHOULD IT BECOME NECESSARY IN ORDER TO PREVENT UNDUE DIVERSION FROM THE SCHEDULED AIR SERVICES OF EACH BETWEEN THEIR TERRITORIES, OR TO CORRECT ANY SERIOUS EXPERIENCED ENFORCEMENT PROBLEM.

(2) CONSULT, AT THE EARLIEST PRACTICAL TIME AFTER A REQUEST TO DO SO HAS BEEN RECEIVED FROM THE OTHER PARTY, ON ANY MATTER COVERED BY ITS ADVANCE CHARTER RULES, OR CONCERNING THE REASONABLENESS OF PROGRAM SIZE, OR CHARTER TARIFFS, RATES OR FARES FOR TRAFFIC MOVING UNDER THESE RULES.

(3) WORK TOWARDS ULTIMATELY ACHIEVING COMMONALITY OF ADVANCE CHARTER RULES TO THE EXTENT POSSIBLE IN ORDER TO MINIMIZE OFFICIAL USE

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IMIZE THE NECESSARY YIELDING BY EACH PARTY OF SOME CONTROL OVER TRAFFIC ORIGINATED IN THE TERRITORY OF THE OTHER.

II. PARTICULAR UNITED STATES ACTIONS

THE UNITED STATES UERTAKES THAT ITS REGULATORY AUTHORITIES WILL:

(1) BEGIN AND CONCLUDE, AS SOON AS PRACTICABLE, RULE MAKING PROCEDURES TO IMPLEMENT ACCEPTANCE OF THE ADVANCE BOOKING CHARTER (ABC) RULE OF THE FEDERAL REPUBLIC ON A CONTINUING BASIS DURING THE LIFE OF THIS UNDERSTANDING OR ANY WHICH MAY SUPERSEDE IT, FOR THE PURPOSE OF DETERMINING THE CHARTERWORTHINESS OF TRAFFIC WHICH ORIGINATES IN THE FEDERAL REPUBLIC AND CONFORMS TO THE SAID ABC RULE OF THE FEDERAL REPUBLIC.

(2) AS AN INTERIM MEASURE, AND UNTIL SUCH TIME AS THE AC-

TIONS MENTIONED IN (1) ABOVE ARE EFFECTUATED, GRANT INDIVIDUAL CASE WAIVERS OF SUCH PROVISIONS OF ITS REGULATIONS AS MIGHT PRECLUDE THE OPERATION OF ANY INDIVIDUAL FLIGHT OR SERIES OF ABC (OR ABC AND TGC SPLIT CHARTER) FLIGHTS, PROVIDED THE ABC GROUP MOVEMENTS FOR WHICH WAIVERS ARE SOUGHT ORIGINATE IN THE FEDERAL REPUBLIC AND CONFORM TO THE ABC RULE OF THE FEDERAL REPUBLIC.

III. PARTICULAR ACTIONS OF THE FEDERAL REPUBLIC OF GERMANY

THE FEDERAL REPUBLIC UNDERTAKES THAT ITS REGULATORY AUTHORITIES WILL TAKE ALL APPROPRIATE ACTIONS TO PERMIT THEM TO ACCEPT AS CHARTERWORTHY TRAFFIC WHICH ORIGINATES IN THE UNITED STATES AND CONFORMS TO THE TGC RULE AND SO TO ACCEPT SUCH TRAFFIC.

FOOTNOTES:

1/. TGC MEANS THOSE RULES OF THE UNITED STATES EMBODIED IN PART 372 A OF THE SPECIAL REGULATIONS OF THE UNITED STATES CIVIL AERONAUTICS BOARD, AND ANY AMENDMENT THERETO. ABC MEANS THOSE RULES OF THE FEDERAL REPUBLIC EMBODIED IN THE FEDERAL REPUBLICS NOTAM N31/73 OF FEBRUARY 1, 1973, AND ANY AMENDMENTS THERETO.

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2/. IN THIS REGARD, AND IN ORDER TO IDENTIFY THE ORIGIN OF TRAFFIC AND TO MONITOR CHARTER PRICES, EACH PARTY MAY REQUIRE FOR EACH FLIGHT INFORMATION RELATING TO THE PROPOSED DATE, TIME AND ROUTING OF THE FLIGHT, THE IDENTITY OF THE TRAVEL ORGANIZER AND THE NUMBER OF SEATS CONTRACTED FOR AS WELL AS THE PRICES PROPOSED TO BE CHARGED TO AND ULTIMATELY PAID BY THE TRAVEL ORGANIZER AND THE PASSENGER.

3/. BY WAY OF EXCEPTION, ALL PASSENGER LISTS AND OTHER
SIMILAR DOCUMENTS REQUIRED BY THE REGULATORY AUTHORITIES OF
THE COUNTRY OF ORIGIN OF THE TRAFFIC SHALL BE FILED WITH
THE REGULATORY AUTHORITIES OF BOTH PARTIES ON SPLIT CHARTER
FLIGHTS OF TGC TRAFFIC AND ABC TRAFFIC. ROGERS

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